

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT SECURITIES
LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

MICHAEL MANN, MERYL MANN and BAM L.P.,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04390 (CGM)

**DECLARATION OF ARTHUR H. RUEGGER
IN SUPPORT OF DEFENDANTS'
MOTION *IN LIMINE* TO EXCLUDE THE TESTIMONY OF LISA COLLURA**

I, Arthur H. Ruegger, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746,
as follows:

1. I am a Senior Counsel at Dentons US LLP, counsel to defendants, Michael Mann, Meryl Mann and BAM L.P. I am a member of the bar of New York and I am admitted to practice in this Court.

2. I submit this declaration in support of Defendants' Motion *in Limine* to Exclude the Testimony of Lisa Collura, submitted simultaneously herewith.

3. Attached hereto as **Exhibit A** is a true and correct copy of the Expert Report of Lisa M. Collura, CPA, CFE, CFF, dated June 12, 2015, without exhibits.

4. Attached hereto as **Exhibit B** are true and correct copies of excerpts from the May 8 and May 9, 2019 transcripts in the trial of *Picard v. Nelson*, Adv. Proc. Nos. 10-04377 & -04658 (SMB).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 27, 2020
New York, New York

/s/ Arthur H. Ruegger

ARTHUR H. RUEGGER

EXHIBIT A

Page 1

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Adv. Case No. 10-04377-smb

4 Adv. Case No. 10-04658-smb

5 - - - - - x

6 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.

7 MADOFF INVESTMENT SECURITIES LLC,

8 Plaintiff,

9 v.

10 NELSON et al.,

11 Defendants.

12 - - - - - x

13
14 United States Bankruptcy Court

15 One Bowling Green

16 New York, NY 10004

17
18 May 8, 2019

19 10:22 AM

20
21 B E F O R E :

22 HON STUART M. BERNSTEIN

23 U.S. BANKRUPTCY JUDGE

24
25 ECRO: NAROTAM RAI

1 HEARING re 10-04377-smb TRIAL

2

3 HEARING re 10-04377-smb Motion In Limine Number 1 to Admit
4 the Plea Allocutions of Bernard L. Madoff and BLMIS
5 Employees (also applies to Adv. Proc. No. 10-04658)

6

7 HEARING re 10-04377-smb Motion In Limine Number 2 to Admit
8 the Trial Testimony of Frack DiPascali (also applies to Adv.
9 Proc. No. 10-04658)

10

11 HEARING re 10-04377-smb Motion In Limine Number 3 to Exclude
12 Testimony and Exhibits Related to Defendants Asserted Tax
13 Obligations to Governmental Taxing Authorities (also applies
14 to Adv. Proc. No. 10-04658)

15

16 HEARING re 10-04658 TRIAL

17

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

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8 BY: SEANNA R. BROWN

9 NICHOLAS J. CREMONA

10 DEAN HUNT

11 LAN HOANG

12 AMY E. VANDERWAL

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1 CHAITMAN LLP

2 465 Park Avenue

3 New York, NY 10022

4
5 BY: HELEN DAVIS CHAITMAN

6 JENNIFER ALLIM

7
8 ALSO PRESENT TELEPHONICALLY:

9
10 SEAN DALY

11 DAVID J. SHEEHAN

12 ROBERT A. RICH

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P R O C E E D I N G S

CLERK: Please be seated.

THE COURT: Picard versus Nelson. Is the
Plaintiff ready?

MR. CREMONA: We are, Your Honor. Good morning.

THE COURT: Is the Defendant ready?

MR. HUNT: Yes.

THE COURT: All right. Why don't we deal with the
motions in limine first, which -- and objections, which I've
reviewed?

MR. CREMONA: Thank you, Your Honor. Nicholas
Cremona of Baker & Hostetler appearing on behalf of Irving
Picard as the Trustee.

As Your Honor indicated, we have several pretrial
motions that we'd like to deal with, the first of which I
think is one that's rather straightforward from our
perspective, but I understand, as Your Honor often says,
your perspective in this case often depends upon where you
sit.

So the motion in limine number 3 is a motion to
exclude the testimony of Robert Oppenheim. He is an
accountant that has been designated by the defendants, and
based on the declaration that was submitted in opposition to
our motion, it appears that he would testify that the
defendants paid roughly \$5.3 million in taxes based on

1 THE COURT: 2:00, and then we can go as long as we
2 want.

3 (Recess)

4 CLERK: Please be seated.

5 THE COURT: Could you raise your right hand,
6 please? Do you solemnly swear that the testimony you're
7 about to give will be the truth?

8 MS. COLLURA: I do.

9 THE COURT: Okay. Please state your name. I
10 don't know if it was stated.

11 MS. COLLURA: Lisa Collura.

12 THE COURT: Thank you.

13 [WITNESS LILSA COLLURA SWORN IN]

14 MR. HUNT: Your Honor, I have a binder of exhibits
15 that are demonstrative exhibits for counsel.

16 THE COURT: Thank you. Do you have an extra one
17 for my clerk? If not, he'll tough it out.

18 MR. HUNT: Okay. I guess just to clarify, and it
19 seems like we're making good time here, you want to just
20 move all exhibits in?

21 THE COURT: I think that probably makes sense.

22 MS. CHAITMAN: And just to, if I may, just on that
23 issue, Your Honor. We have a lot of exhibits, some of which
24 we started with where we have a hundred of the same document
25 but a different time period.

1 THE COURT: Is there a dispute regarding the
2 authenticity or the admissibility of the documents? I don't
3 know what they are.

4 MR. HUNT: I don't have a dispute on the
5 authenticity of the Debtors' books and records, Your Honor.

6 THE COURT: Are there any DTC records or anything
7 like that?

8 MR. HUNT: As far as I know, we've got the Debtors'
9 books and records, the third-party bank records, which we
10 got from their accountant.

11 THE COURT: I just want to make sure that after
12 the evidence is closed, we don't have a problem with
13 authentication or something like that, for which we would
14 need a witness.

15 MS. CHAITMAN: All right. I mean, what I have,
16 for example, are like the checks that were sent out by
17 Madoff.

18 THE COURT: If they're checks on the Madoff
19 account, I don't know if there's any disputes at issue.

20 MS. CHAITMAN: Right, right, okay.

21 MR. HUNT: But there are, you know, there are a
22 lot of books and records that we've reviewed that Mr.
23 Dubinsky testified about.

24 THE COURT: Why don't we complete the evidence.
25 It doesn't sound like there's going to be a dispute. If you

1 think there's going to be an issue regarding authentication
2 or hearsay -- the business records, for example -- you'll
3 have to do it through the witnesses.

4 MR. HUNT: I would also ask if we could go ahead
5 and qualify Ms. Collura as an expert on forensic accounting?

6 THE COURT: Any objection to her qualifications as
7 a forensic accountant?

8 MS. CHAITMAN: No.

9 THE COURT: She's qualified. Go ahead.

10 MR. HUNT: Thank you, Your Honor.

11 DIRECT EXAMINATION OF LISA COLLURA

12 BY MR. HUNT:

13 Q Good afternoon.

14 A Hello.

15 Q Let me ask you what your job was for the BLMIS
16 engagement; what did you do?

17 A So my job was specifically to focus on looking at the
18 cash transactions that appeared on the customer statements
19 of the BLMIS IA business customers and reconcile those cash
20 transactions to available records. In addition to
21 reconciliation, part of my responsivity was to trace
22 transactions from BLMIS to other bank accounts, bank
23 accounts held by the defendants or other account holders.

24 Q If you could turn to Exhibit 3 in your demonstrative
25 binder. I'll ask you if you can use that to help explain

1 those concepts for us a bit.

2 A This isn't -- the one in here, 3?

3 Q Yes.

4 A This one, this one is 4, while 3 is here. Okay. Then
5 4 is missing, okay.

6 Q We've got the tab situation taken care of for a moment,
7 please.

8 A Great.

9 Q If you could look at Exhibit 3 and specifically turning
10 to the reconciliation portion of your work, could you
11 explain to us what you mean when you say reconciliation?

12 A For reconciliation, it's when I match customer cash
13 transactions that were reflected on customer statements to
14 other evidence, and that other evidence included BLMIS bank
15 records, correspondence in BLMIS customer files, or
16 documents that were either produced to or received by the
17 Trustee.

18 Q Did you reconcile to third-party records for each of
19 the customer accounts in the investment advisor business?

20 A For all of the customer, BLMIS customer accounts, I
21 reconciled to third-party bank records that were available
22 to me.

23 Q And did you do that for the Nelson accounts?

24 A I did.

25 Q You also say you traced the flow of funds. Looking at

1 Exhibit 3, can you help us walk through that concept?

2 A So by traced, I mean when I'm following the flow of
3 funds from BLMIS to another bank account. And so, for
4 purposes of this matter, I traced the cash withdrawals
5 during the two-year period.

6 Q And you performed that for the Nelson accounts?

7 A I did.

8 Q What categories of BLMIS books and records did you
9 review to conduct the reconciliation and tracing analysis of
10 the BLMIS investment advisory accounts?

11 A BLMIS bank records that were secured by the Trustee,
12 both in the Trustee's -- I'm sorry -- BLMIS' records, as
13 well as received by J.P. Morgan. I also reviewed
14 correspondence that was included in BLMIS customer files,
15 the files that were maintained at BLMIS for each -- or many
16 of the BLMIS customers of the IA business. And then lastly,
17 any documents that were produced to the Trustee in this
18 matter or were received by the Trustee related to the Nelson
19 accounts.

20 Q Did you rely on any specific data that was documents on
21 the BLMIS investment advisory customer statements?

22 A The cash transactions on those statements.

23 Q Did FTI compile the information for you to complete
24 that analysis?

25 A FTI did, yes.

1 Q How did you all do that?

2 A So the cash transactions reflected on the customer
3 statements were noted by specific transaction types, and
4 they often had the word check or check wire, and those were
5 all accumulated in a chronological listing of cash
6 transactions for all BLMIS customers.

7 Q How many transactions are we talking about for these
8 customer statements that you reconciled?

9 A For the ones that I reconciled, there were over 227,000
10 cash transactions, either -- including both cash deposits
11 and cash withdrawals reflected on the customer statements
12 for the period that I performed my reconciliation analysis.

13 Q Is that the type of record relied on in the ordinary
14 course by forensic accountants like yourself?

15 A Bank records?

16 Q Yes.

17 A Yes, it is.

18 Q What about the customer statements?

19 A Yes.

20 Q Based on your review of the BLMIS books and records,
21 did you find the investment advisory customer statements to
22 be reliable?

23 A The cash transactions on those customer statements,
24 yes, were reliable.

25 Q Do you have all of the customer statements for the

1 three Nelson accounts?

2 A Yes, I do.

3 Q And you reviewed all of those.

4 A I did.

5 Q Let's turn now to another source of data that you
6 identified, third-party bank records with BLMIS. Are third-
7 party bank records the type of information relied on by
8 forensic accountants while reconciling and tracing funds?

9 A Yes, they are.

10 Q Please explain what bank records you analyzed.

11 A The bank records that I analyzed were related to the
12 bank accounts that were used by the IA business for cash
13 deposits and withdrawals to and from customers. There were
14 three primary bank accounts that were used in the 10-year
15 period for which I had available bank records; two of those
16 accounts were at J.P. Morgan, and one of those accounts was
17 at Bankers Trust.

18 Q Was one of the accounts the 703 account?

19 A Yes, it was.

20 Q What records did you review for the 703 account?

21 A For the 703 account, I had available to me monthly bank
22 statements. I had deposited checks that were deposited into
23 that account, along with many of the related deposit slips,
24 as well as any checks that were written off of the 703
25 account. And the 703 account also had wire transfers, and

1 there was a detailed file received by the Trustee that
2 included all of the information about the wire transfers for
3 a period of time, not the full 10-year period, but a period
4 of that time within the 10-year period.

5 Q I was going to ask you what period you looked at.

6 A We had available to us records from December 1998 to
7 December 2008; and, therefore, that's why I refer to it as
8 the 10-year period.

9 Q Okay. How about the BLMIS 509 account; did you review
10 bank records for that?

11 A I did.

12 Q What records did you look at for the 509 account?

13 A For the 509 account, there were also monthly bank
14 statements for that account. The primary record that I
15 reviewed for that account was the cancelled checks that were
16 written from the 509 account.

17 Q What period did you analyze?

18 A Again, December 1998 to December 2008.

19 Q What BLMIS bank records did you review for the Bankers
20 Trust account?

21 A For the Bankers Trust account, there were monthly bank
22 statements, some checks, although there weren't a lot of
23 checks written from that account. But I think for Bankers
24 Trust, it was primarily the monthly bank statements.

25 Q Was the Bankers Trust account involved in any of the

1 transfers we're talking about here today?

2 A No, it was not.

3 Q If you could turn to Exhibit 4 in your binder, which --

4 A It's here, it's here.

5 Q Okay. And describe for us, first of all, if you
6 prepared that exhibit.

7 A I did.

8 Q What records did you use to prepare it?

9 A The bank statements and other bank records that I just
10 described.

11 Q Okay. Using Exhibit 4, demonstrative Exhibit 4 as a
12 guide, I want you to discuss how you -- what you concluded
13 about the flow of BLMIS customer funds.

14 A So the cash deposits from BLMIS customers were
15 deposited into the 703 account, which is the first account
16 listed there in the middle in the blue boxes. From the 703
17 account, there were wire transfers, as well as check --
18 excuse me, as well as checks that were sent to BLMIS
19 customers for -- to pay cash withdrawals.

20 The 703 account also funded a hundred percent the
21 509 account, which is another account at J.P. Morgan, which
22 is the middle one there in the blue boxes. It, the 703
23 account also a hundred percent funded the Bankers Trust
24 account. And the -- from both the 509 account and the
25 Bankers Trust account, there were checks that were sent to

1 pay customers for their withdrawals that they took on their
2 customer accounts.

3 Q Were there any wires or checks written to the Nelson
4 parties from the 703 account?

5 A None from the 703 account, no.

6 Q Okay. Why is that?

7 A The withdrawals taken by the Nelsons on their accounts
8 were in the form of checks that were sent from the 509
9 account, which again was a hundred percent funded by the 703
10 account.

11 Q Where'd the money come for the 703 account again,
12 where'd it come from?

13 A The customer deposits came into the 703 account.

14 Q Anywhere else?

15 A I'm sorry?

16 Q Did it come from anywhere else into the 703 account?

17 A Customer deposits?

18 Q Yeah.

19 A No, they only went into the 703 account.

20 Q Okay.

21 THE COURT: I think he was asking whether the 703
22 account received deposits from any source other than
23 customer funds. Was that your question?

24 MR. HUNT: Yes.

25 MS. COLLURA: Oh, I'm sorry.

1 A Yes. So the majority of the funds into the 703 account
2 for that 10-year time period was direct -- from BLMIS
3 customers, directly from customers, about 97 percent. There
4 was 3 percent that weren't directly from customers, but it
5 was related to transactions with brokerage accounts that
6 were in the name of either BLMIS or Bernard L. Madoff; there
7 were transfers back and forth with those accounts. And the
8 3 percent is also comprised of interest that was earned on
9 the short-term investments that were made -- the overnight
10 sweeps, the CDs, commercial paper, and other short-term
11 investments that were made directly from the 703 account.

12 Q What is a bank statement?

13 A A bank statement is typically monthly. It's a monthly
14 statement that identifies the transactions in a particular
15 bank account on a daily basis.

16 Q Did you review the bank statements for the 703 and 509
17 account?

18 A I did.

19 Q Do the bank statements for the 703 account and the 509
20 account show the interaction between the two accounts you
21 just described?

22 A Yes, they do..

23 Q If you could turn to demonstrative 5, please, and
24 identify the document on the left.

25 A The document on the left is a monthly statement for the

1 703 account for the month of November 2008.

2 Q What's the source of that record?

3 A That record was from J.P. Morgan.

4 Q Now identify the record on the right, please.

5 MS. CHAITMAN: Could you bring those closer so we
6 can see them, so I can see them?

7 THE COURT: Don't you have at least the -- Miss
8 Chaitman, do you have at least the binder because they're
9 easier to see in the binder. Is this exhibit in the binder?

10 MR. HUNT: Yes.

11 THE COURT: Which number is it?

12 MR. HUNT: It's Exhibit 5 demonstrative. No, he's
13 got the wrong one up there.

14 MS. CHAITMAN: I have it in this.

15 MR. HUNT: It's demonstrative Exhibit 5.

16 THE COURT: That's not 5 that's just put up on the
17 -- you had it before.

18 MS. CHAITMAN: I don't have the one that's on the
19 screen.

20 THE COURT: That's fine. You have the wrong
21 exhibit on the screen, or at least it's not Exhibit 5.
22 That's Exhibit 5, all right, that's the correct one. Do you
23 have what you need?

24 MS. CHAITMAN: Now I do, thank you.

25 THE COURT: Okay.

1 Q If you could identify the document on the right,
2 please.

3 A The document on the right is the monthly statement for
4 the 509 account for November 2008.

5 Q Do these records relate to your analysis of the flow of
6 funds in the investment advisor business we just discussed?

7 A Yes.

8 Q Explain how, please.

9 A So this -- these two statements show an example of, on
10 one day, particularly November 25th, 2008, where there was a
11 funding transfer from the 703 account to the 509 account.
12 On the left-hand side, you see the transaction dated
13 November 25th with the description, funding xfer or transfer
14 to lots of numbers and then it ends in 509, so that's the
15 509 account for \$8,944,621.13.

16 On the right-hand side in the 509 account
17 statement, you see the corresponding receipt of that
18 transfer from the 703 account on the same date in the same
19 amount.

20 Q Are you familiar with the term holder as it relates to
21 bank accounts?

22 A I am.

23 Q How is the term holder defined in the banking world?

24 A The holder of the -- in a bank account is typically the
25 name that appears on the monthly statements.

1 Q If you could turn to Exhibit 6 in your binder and
2 identify the two documents on the left, please.

3 A The documents on the left are two different bank
4 account monthly bank statements for the 703 account for the
5 month of August 2002 and then the month of September 2002.

6 Q What's the source of these records?

7 A These are from J.P. Morgan.

8 Q How do you know these are account statements for the
9 703 account?

10 A The 703 account number is the last three digits of the
11 account number that appears on the statement.

12 Q Do the statements identify the holder of the account?

13 A Yes. The name on the account for the August 2002
14 statement is Bernard L. Madoff.

15 Q For both, for both accounts?

16 A For both accounts. The statements on the right-hand
17 side are the same months, August 2002 and September 2002,
18 just for the 509 account.

19 Q The documents below those are what?

20 A Those are the statements for both the 703 account and
21 the 509 account for September 2002 for, again, the 703
22 account and the 509 account.

23 Q Do these statements identify the holder?

24 A Yes. In September of 2002, the holder of the account
25 became Bernard L. Madoff Investment Securities for both the

1 703 account and the 509 account.

2 Q Did you include that opinion in your report?

3 A Yes.

4 Q Where did it come up, where is it in your report?

5 A It was in Exhibit 3 to my report.

6 Q From the period September 2002 to the time that Mr.
7 Madoff was arrested, it was what entity was the holder of
8 the 703 account?

9 A Bernard L. Madoff Investment Securities.

10 Q For the period September 2002 through December 2008
11 when Mr. Madoff was arrested, what was the holder of the 509
12 account?

13 A Bernard L. Madoff Investment Securities.

14 Q With the name change in the corporate entity between
15 August and September 2002, did you see any differences in
16 the handling of the transactions reflected in the 703 or 509
17 accounts?

18 A No. The transactions in both of those accounts were
19 consistent, meaning they were cash in from customers and
20 withdrawals to customers, for the whole time period that I
21 had statements available to me, which was from back from
22 December 1998.

23 Q Okay. Let's go back and talk about reconciliation.
24 You said you did a global reconciliation. And just refresh
25 my recollection what you did to do that.

1 A So the global reconciliation was when I took the cash
2 transactions that were reflected on the customer statements
3 for all customer accounts and reconciled those cash
4 transactions to the available BLMIS bank records, again,
5 that were available to me from December 1998 to December
6 2008.

7 Q Why did you perform this, quote/unquote, global
8 reconciliation of the customer statements and bank records
9 for the BLMIS 703 and 509 accounts?

10 A This was done to help determine whether or not the cash
11 transactions on the customer statements were accurately
12 reflected as cash transactions -- cash deposits or cash
13 withdrawals.

14 Q How many transactions did you review?

15 A On the customer statements, there was over 225,000 cash
16 transactions. And on the bank records, I reviewed over
17 150,000 transactions on those bank records.

18 Q How did you keep track of those transactions?

19 A So we kept track of them, we assigned a unique
20 identifier to each of the cash transactions on the customer
21 statements. We assigned a different unique identifying
22 number to all the transactions in the bank records. And we
23 would match those when we reconciled one transaction on the
24 customer statements to one transaction on the bank records;
25 and, therefore, that avoided matching the same transaction

1 twice.

2 Q Is that a methodology that forensic accounts typically
3 use in this reconciliation process?

4 A Yes, I would say so.

5 Q If you could turn to Exhibit 7 in your binder and
6 identify that for the Court.

7 A Exhibit 7 is a summary of these -- of what I just
8 described was my overall reconciliation results of the
9 227,795, to be exact, cash transactions that were reflected
10 on the BLMIS customer statements from December 1998 to
11 December 2008.

12 Q Records you relied on in that exhibit are the ones we
13 just talked about.

14 A Yes, correct.

15 Q Okay. Is that an accurate summary of your analysis?

16 A Yes, and this shows the results of my reconciliation.
17 And those results are that I reconciled 99.01 percent of
18 those cash transactions to the available BLMIS records.

19 Q What does Exhibit 7 tell us about the reconciliation of
20 the investment advisory business customer statements in the
21 703 and 509 accounts?

22 A That the cash transactions that appeared on the
23 customer statements were accurately reflected.

24 Q Is that your opinion with respect to all of those cash
25 transactions?

1 BY MS. DAVIS CHAITMAN:

2 Q This is dated January 1, 2001 and it's a letter from
3 Bernard L. Madoff Investment Securities, LLC; do you see
4 that?

5 A Yes.

6 Q And it's written to Bank of New York; do you see that?

7 A Yes.

8 Q And, in essence, the letter says, we have changed the
9 -- from the sole proprietorship. It -- we've now formed
10 Bernard L. Madoff Investment Securities, LLC; do you see
11 that?

12 A Yes.

13 Q Okay. And --

14 MS. DAVIS CHAITMAN: Can you pull up DX-M, please,
15 Roy?

16 (Pause)

17 BY MS. DAVIS CHAITMAN:

18 Q That same letter was sent to a whole bunch of different
19 companies; wasn't it?

20 A I don't know who else it was sent to. I see this one
21 was sent to the National Securities Clearing Corporation.

22 Q The NESCC with which Madoff regularly did business,
23 right?

24 You don't know that?

25 A I don't know that.

EXHIBIT B

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 - - - - - x

4 In the Matter

5 IRVING H. PICARD, TRUSTEE

6 FOR THE LIQUIDATION OF B, Adv. Case No. 10-04377-SMB

7 Plaintiff,

8 VS.

9 NELSON, ET AL.

10 Defendants.

11 - - - - - x

12 In the Matter

13 IRVING H. PICARD, TRUSTEE

14 FOR THE LIQUIDATION OF B, Adv. Case No. 10-04658-SMB

15 Plaintiff,

16 VS.

17 NELSON, ET AL.

18 Defendants.

19 - - - - - x

20 United States Bankruptcy Court

21 One Bowling Green

22 New York, New York 10004-1408

23 May 9, 2019

24 2:00 PM

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1 B E F O R E :

2 HON. STUART M. BERNSTEIN

3 U.S. BANKRUPTCY JUDGE

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1 HEARING RE: Adversary Proceeding: 10-04377-smb, Irving H.
2 Picard, Trustee for the Liquidation of B v Nelson, et al.,
3 Trial.

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5 HEARING RE: Adversary Proceeding: 10-04377-smb, Irving h.
6 Picard, Trustee, for the Liquidation of B v. Nelson, et al.,
7 Trial.

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25 Transcribed by: Pamela A. Skaw and Tracey Williams

1 A P P E A R A N C E S :

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5 New York, NY 10111

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7 BY: DEAN D. HUNT, ESQUIRE

8 MARIE L. CARISLE, ESQUIRE

9 AMY E. VANDERWAL, ESQUIRE

10 NICHOLAS J. CREMONA, ESQUIRE

11 MAXIMILLIAN S. SHIFRIN, ESQUIRE

12 SEANNA R. BROWN, ESQUIRE

13 DAVID J. SHEEHAN, ESQUIRE

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16 Attorney for

17 465 Park Avenue

18 New York, NY 10022

19

20 BY: HELEN DAVIS CHAIRMAN, ESQUIRE

21

22

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P R O C E E D I N G S

THE CLERK: All rise.

THE COURT: Please be seated.

(Pause)

THE COURT: Is Ms. Collura --

MR. HUNT: She is, Your Honor.

Dean Hunt for the Trustee. Just a couple of
housekeeping matters, if I may.

THE COURT: Uh-huh.

MR. HUNT: First of all, I want to say we have
Ms. Collura and Mr. Greenblatt here today. I'd ask the
Defendants to identify their witnesses.

UNIDENTIFIED SPEAKER: He doesn't know
(indiscernible).

MR. HUNT: Second --

THE COURT: Can you please keep your voices up?
It's --

MR. HUNT: Okay. We'll give it our best. Sorry.
Second, my partners have advised me that I
referred to the Trustee's demonstrative exhibits one through
ten as just exhibits one through ten during Ms. Collura's
testimony.

] So, I wanted to clarify the record on that.
Good morning.

THE COURT: Okay. Thank you.

1 THE COURT: Okay. Go ahead, Ms. Chaitman.

2 MS. DAVIS CHAITMAN: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. DAVIS CHAITMAN:

5 Q Good afternoon, Ms. Collura.

6 A Good afternoon.

7 Q In putting together your report, you reviewed every
8 single transaction involving the Nelsons; didn't you?

9 A The case transactions. Yes.

10 Q Okay. And you reviewed all of the documents relating
11 to their accounts in the process of doing that; didn't you?

12 A Which documents? I -- their -- which documents are you
13 referring to?

14 Q In preparing your report, did you review the Nelsons'
15 account documents?

16 A I reviewed checks and bank records related to their
17 cash transactions.

18 Q Okay.

19 A I reviewed documents in their customer files related to
20 their accounts.

21 Q Okay. Okay.

22 Now, the payments to the Nelsons all came from the 509
23 account at J.P. Morgan Chase; isn't that true?

24 A That's correct.

25 Q Okay. And let's look at the 509 account statements.

1 MS. DAVIS CHAITMAN: Roy, if you'd be good enough to
2 pull up DX-Y.

3 (Pause)

4 MS. DAVIS CHAITMAN: And if you could go to the
5 first page. Yeah. Thank you.

6 (Pause)

7 BY MS. DAVIS CHAITMAN:

8 Q This is in DX-Y. It's a compilation of global
9 electronic funding reports and if you look -- this one has a
10 Bates number of MADTSS01293772.

11 And if you look, this document is dated
12 January 2nd, 2007; do you see that?

13 A I do.

14 Q And the account number is listed ending in 509; do you
15 see that?

16 A Yes. I do.

17 Q And do you see that the account name is in Bernard L.
18 Madoff?

19 A Yes. I do.

20 Q Okay.

21 MS. DAVIS CHAITMAN: And can you go to the next
22 document?

23 THE COURT: Can I ask you what exhibit -- how is
24 this Exhibit marked? I don't see the markings
25 (indiscernible).

1 MS. DAVIS CHAITMAN: This is DX-Y, Exhibit DX-Y.

2 THE COURT: Okay. Thank you.

3 MS. DAVIS CHAITMAN: And I'm not going through
4 every document in that Exhibit but I'm going through a bunch
5 of them.

6 THE COURT: I just didn't see the exhibit marking
7 so it's identified.

8 MS. DAVIS CHAITMAN: Okay.

9 THE COURT: All right.

10 (Pause)

11 BY MS. DAVIS CHAITMAN:

12 Q Okay. This is statement dated December 18th, 2006 for
13 the 509 account. It's also in the name of Bernard L.
14 Madoff; do you see that?

15 A I do but I wouldn't refer to this as a statement for
16 the 509 account.

17 Q Okay.

18 A It's a document related to but I wouldn't call this a
19 statement.

20 Q Right. You're right. It's an electronic funding
21 report.

22 A Right. That's the title of it.

23 Q Right.

24 Without going through these, which I'm prepared to do
25 because they're in DX-Y, would you agree, Ms. Collura, that

1 the 509 account was always maintained, according to J.P.
2 Morgan Chase's records in the name of Bernard L. Madoff?

3 A No. I would not agree with that.

4 Q Okay. Then, let's keep going.

5 Here's a document which is dated October 5th, 2005.
6 It's Bates number MADTSS01338921. And this shows that the
7 509 account is in the name of Bernard Madoff as of
8 October 5th, 2005; do you agree?

9 A Well, that's what this document shows. I -- if you
10 have a copy of a statement, not for this -- for this time
11 period, yes, for 2005, the name on the monthly statement for
12 the 509 account will be different.

13 Q Okay. We'll go through that.

14 A Okay.

15 MS. DAVIS CHAITMAN: Can you pull up the next one,
16 please?

17 BY MS. DAVIS CHAITMAN:

18 Q This is dated December 3rd, 2005 and, again, it's a
19 electronic funding report and it lists the name of the 509
20 account as Bernard L. Madoff; do you see that?

21 A Yes. That's what's on this document.

22 Q Okay. Okay.

23 Well, are you prepared, just to expedite this slightly,
24 that -- to agree that every electronic funding report is in
25 the name of Bernard L. Madoff?

1 A I can't testify to that.

2 Q Okay. No problem.

3 A I haven't look at every one.

4 THE COURT: Aren't these in evidence?

5 MS. DAVIS CHAITMAN: Well, they are. I can -- I'm
6 putting the whole --

7 THE COURT: Yeah. I mean, she didn't prepare
8 them. So, whatever they say, they say.

9 MS. DAVIS CHAITMAN: Right. Okay.

10 And could you pull up, please, for us DX-Z as in
11 Zebra?

12 (Pause)

13 BY MS. DAVIS CHAITMAN:

14 Q If you look at this document, which is dated
15 May 16th, 2005 to May 20th, 2005, do you see that this shows
16 Bernard Madoff as the holder of the account ending in 509?

17 THE COURT: Maybe I'm not seeing it but is this a
18 Bates labelled document? It --

19 MS. DAVIS CHAITMAN: It is. It's on the side on
20 the upper right hand corner.

21 THE COURT: Oh, okay. Thank you.

22 MS. DAVIS CHAITMAN: Do you want me to read it
23 into the record or are you okay?

24 THE COURT: You can do what you want. Well, let's
25 -- (indiscernible) the last five digits of the Bates number?

1 MS. DAVIS CHAITMAN: It begins MAD and it ends
2 with 74945.

3 THE COURT: Thank you.

4 BY MS. DAVIS CHAITMAN:

5 Q And you would agree that this shows Bernard Madoff on
6 this statement as being the owner of the 509 account, right?

7 A This document has Bernard L. Madoff on it but I
8 wouldn't say that that indicates the holder of the account.

9 The monthly statement for the 509 account would
10 indicate that.

11 Q Okay.

12 MS. DAVIS CHAITMAN: Can you go, please, Roy, to
13 DX-AA -- just DX-AA?

14 (Pause)

15 BY MS. DAVIS CHAITMAN:

16 Q Okay. This is a statement and this is actually, I
17 believe, the very last statement that was sent out by
18 J.P. Morgan Chase, right?

19 A I think that there were statements in 2009.

20 Q Okay.

21 Well, this covers the last period of when he was
22 operating?

23 A Correct.

24 Q Is that fair to say? Okay.

25 A Yes. That's fair.

1 Q And the name of the account is Bernard L. Madoff
2 Investment Securities; do you see that?

3 A I do.

4 Q It doesn't say LLC; does it?

5 A There's no LLC on the name here. No.

6 Q Okay.

7 And would you agree with me that you've never seen a
8 J.P. Morgan Chase monthly statement which read as the owner
9 of the account Bernard L. Madoff Investment Securities, LLC?

10 A Not for the 509 account.

11 Q You would agree with me that you have not seen it?

12 A There -- I think there were some other bank accounts
13 that were held in the name with LLC.

14 Q Just answer my specific question. You'll have an
15 opportunity on redirect to say whatever you'd like. But
16 just answer my questions.

17 Did you ever see a statement from the 509 account that
18 listed Bernard L. Madoff Investment Securities, LLC as the
19 holder of the account?

20 A No.

21 Q Thank you.

22 MS. DAVIS CHAITMAN: Would be good enough to pull
23 up DX-E?

24 (Pause)

25 BY MS. DAVIS CHAITMAN:

1 Q Now, this is a December 1, 2000 statement for the 703
2 account; do you see that?

3 A I do.

4 Q And this is in the name of Bernard L. Madoff; is it
5 not?

6 A It is.

7 Q Okay.

8 MS. DAVIS CHAITMAN: And, Roy, can you go to the
9 next document, please?

10 (Pause)

11 BY MS. DAVIS CHAITMAN:

12 Q This is a statement as of December 31, 2001 and this is
13 also for the 703 account; is it not?

14 A It is.

15 Q And this is in the name of Bernard L. Madoff; isn't
16 that true?

17 A It's true.

18 Q And do you recall the date when the LLC was formed?

19 A January 2001.

20 Q Okay. So, this is 11 months later and the account is
21 in the name of Bernard L. Madoff; isn't that right?

22 A Yes, that's right.

23 Q Okay.

24 MS. DAVIS CHAITMAN: Roy, can you go to the next
25 document, please?

1 (Pause.)

2 BY MS. DAVIS CHAITMAN:

3 Q Here's a statement dated December 31, 2002, for the 703
4 account, right?

5 A Correct.

6 Q And it says Bernard L. Madoff Investment Securities; do
7 you see that?

8 A I do.

9 Q There's no LLC, right?

10 A There's no LLC.

11 MS. DAVIS CHAITMAN: Can you go to the next
12 statement, please?

13 (Pause)

14 BY MS. DAVIS CHAITMAN:

15 Q This is a statement dated December 31, 2003. Same
16 thing. This account is not in the name of the LLC; is it?

17 A There's no LLC on the account name.

18 Q Okay.

19 MS. DAVIS CHAITMAN: Can you go to the next
20 statement, please, Roy?

21 (Pause)

22 BY MS. DAVIS CHAITMAN:

23 Q Here we are on December 31st, 2004. There's no LLC in
24 the account holder's name; is there?

25 A No.

1 MS. DAVIS CHAITMAN: Can you go to the next
2 statement, please?

3 (Pause)

4 BY MS. DAVIS CHAITMAN:

5 Q This is December 30th, 2005. There's no LLC in the 703
6 account statement's holder, the holder's name, is there?

7 A No.

8 MS. DAVIS CHAITMAN: Can you go to the next
9 document, please?

10 (Pause)

11 BY MS. DAVIS CHAITMAN:

12 Q This is December 29th, 2006. Same question. Same
13 answer?

14 A There's no LLC.

15 Q Thank you.

16 MS. DAVIS CHAITMAN: Can you go to the next
17 document, please, Roy?

18 (Pause)

19 BY MS. DAVIS CHAITMAN:

20 Q This is December 2007; do you see that even as of
21 December 31, 2007, the name of the account is Bernard L.
22 Madoff Investment Securities without LLC. Do you see that?

23 A I see that.

24 (Pause)

25 MS. DAVIS CHAITMAN: Roy, can you bring up DX-Y?

1 (Pause)

2 BY MS. DAVIS CHAITMAN:

3 Q Now, this is a --

4 THE COURT: Could you identify it with Bates
5 number please because these documents are all compilations
6 of various --

7 MS. DAVIS CHAITMAN: Sure.

8 THE COURT: -- information.

9 MS. DAVIS CHAITMAN: It's in the documents --

10 THE COURT: They're not necessarily all
11 (indiscernible).

12 MS. DAVIS CHAITMAN: Sure. It's MADTSS01284251.
13 It's in the lower right hand corner of the document.

14 Can you see it?

15 THE COURT: I can see it.

16 MS. DAVIS CHAITMAN: Okay.

17 BY MS. DAVIS CHAITMAN:

18 Q Does this document indicate that it's in the name of
19 the LLC?

20 A This is a document related to the 509 account and the
21 account name on this document is listed just as Bernard L.

22 Q But you would agree that the 509 account was always in
23 the name of the LLC -- of Bernard L. Madoff, not the LLC,
24 right?

25 A Well, no. The 509 account was in the name of Bernard

1 L. Madoff until September 2002 when it changed to Bernard L.
2 Madoff Investment Securities.

3 Q Okay. The 509 account was never changed to Bernard L.
4 Madoff Investment Securities, LLC; was it?

5 A That was never on the statements.

6 Q Okay.

7 Now, you understand that at the time the LLC was
8 formed, since Madoff was operating as a sole proprietorship,
9 prior to that time, if he'd wanted to do business with banks
10 as the LLC, he had to send them written notice that he was
11 changing the name on the account; isn't that true?

12 A I can't opine on that. I don't know that.

13 Q Okay.

14 MS. DAVIS CHAITMAN: Can you pull up DX-U, please?

15 BY MS. DAVIS CHAITMAN:

16 Q This is a document which is dated July 17th --

17 MS. DAVIS CHAITMAN: Do you want me to read the
18 Bates number? I'll read --

19 THE COURT: If it's a one page document, that's
20 fine.

21 MS. DAVIS CHAITMAN: Okay.

22 BY MS. DAVIS CHAITMAN:

23 Q This is DX-U. It's dated July 17, 1991 and it's on the
24 letterhead Bernard L. Madoff Investment Securities.

25 So, you're aware that Madoff was using that trade name

1 as far back as 1991, right?

2 A I'd seen Bernard L. Madoff Investment Securities, this
3 logo, on documents back --

4 Q In the period --

5 A Yeah.

6 Q -- long, long before the LLC was formed; isn't that
7 true?

8 A I've seen this logo on the documents prior to the LLC
9 being formed, yes.

10 Q Okay.

11 MS. DAVIS CHAITMAN: Can you pull up, please, Roy,
12 DX-HC to LT?

13 (Pause)

14 BY MS. DAVIS CHAITMAN:

15 Q If we can quickly run through these checks.

16 Ms. Collura, I'd just like you to agree with me as to
17 the account holder as reflected on the documents, okay?

18 So, here's one as of March 29th, 1999, this is a check
19 to the Nelsons and it's from the account of Bernard L.
20 Madoff; isn't it not?

21 A Yes.

22 Q Okay.

23 A In the 509 account. Yes.

24 Q Okay.

25 MS. DAVIS CHAITMAN: Roy, you can move through

1 these as I talk about them.

2 BY MS. DAVIS CHAITMAN:

3 Q This is one dated April 9th, 1999. Same thing, right?
4 It's in the name --

5 A Yes.

6 Q -- of Bernard L. Madoff?

7 A Yes, from the 509 account.

8 Q Okay.

9 And this is dated May 27th, 1999. Same thing. To the
10 Nelsons from Bernard L. Madoff, right?

11 A Yes, on the 509 account.

12 Q Okay. Okay.

13 The same thing for 7/29/99, correct?

14 A Correct.

15 MS. DAVIS CHAITMAN: You can go to the next one.

16 Thanks.

17 BY MS. DAVIS CHAITMAN:

18 Q Same thing for 8/19/99, correct?

19 A Yes.

20 MS. DAVIS CHAITMAN: Next, Roy.

21 BY MS. DAVIS CHAITMAN:

22 Q Same thing for 11/22/99, right?

23 A Yes.

24 Q Okay.

25 A The check's from the -- a check from the 509 account.

1 Q Okay.

2 Well, all of the checks that were paid to the
3 Nelsons were paid from the 509 account; isn't that true?

4 A That's right.

5 Q Okay.

6 And here's one dated 4/12/2000, same thing. Bernard L.
7 Madoff is the holder of the account, right?

8 A That's what -- his name is on this check, yes.

9 Q Okay.

10 And here's one dated May 1, 2000, same thing, right?

11 A Yes.

12 Q June 1, 2000, same thing, right? Bernard L. Madoff is
13 the holder of the account.

14 A It's the name on this check, yes.

15 Q Okay.

16 MS. DAVIS CHAITMAN: Next one.

17 (Pause)

18 BY MS. DAVIS CHAITMAN:

19 Q June 26th, 2000, same thing?

20 A Yes.

21 Q October 27th, 2000, same thing?

22 A Yes.

23 Q January 12th, 2001, same thing, right?

24 A Yes.

25 Q March 7th, 2001, same thing, right?

1 A Yes.

2 Q Now, as of March 7th, 2001, the LLC had been formed;
3 isn't that true?

4 A Yes. I believe that happened in January of 2001.

5 Q Right. Okay.

6 MS. DAVIS CHAITMAN: Next check, Roy, please.

7 (Pause)

8 BY MS. DAVIS CHAITMAN:

9 Q April 17th, 2001, same thing?

10 A Yes.

11 Q March 7, 2001, same thing?

12 A Yes.

13 Q June 22nd, 2001, same thing?

14 A Yes.

15 Q August 1st, 2001, same thing?

16 A Yes.

17 Q 9/26/2001, same thing?

18 A Yes.

19 Q December 11th, 2001, same thing?

20 A Yes.

21 Q December 10th, 2002, same thing?

22 THE COURT: I think that's -- you mischaracterized
23 the document.

24 Are all the 509 checks bearing the name Bernard
25 Madoff?

1 MS. DAVIS CHAITMAN: Let me skip to some of the
2 later ones.

3 THE COURT: All right.

4 MS. DAVIS CHAITMAN: Roy, if you can skip to, say,
5 2005.

6 THE COURT: Because all she's doing is reading the
7 names off of the exhibits.

8 MS. DAVIS CHAITMAN: Right. Right.

9 (Pause)

10 MS. DAVIS CHAITMAN: If you can go to one that
11 ends in 2005.

12 (Pause)

13 BY MS. DAVIS CHAITMAN:

14 Q Okay. Here's a check --

15 MS. DAVIS CHAITMAN: If you could just blow that
16 up for us, Roy.

17 Thank you so much.

18 BY MS. DAVIS CHAITMAN:

19 Q Okay. So, here's a check which is dated
20 January 25th, 2005 and this is the same thing; the check was
21 from the account of Bernard L. Madoff, right?

22 A Yes. The difference in this time period the statement
23 for the 509 said Bernard L. Madoff Investment Securities.

24 Q Right. But they don't say LLC, right?

25 A No LLC.

1 Q Okay. And you understand the difference between a
2 trade name and a limited liability company?

3 A I --

4 Q You don't?

5 A No.

6 MR. HUNT: Ms. Collura's not designated to testify
7 about corporate structures.

8 THE COURT: Well, but she's asking her -- it goes
9 to the absence of LLC on the documents.

10 BY MS. DAVIS CHAITMAN:

11 Q So, when you analyzed the work to do, your report, you
12 didn't perceive as any significance to whether a document
13 said LLC or just said Bernard L. Madoff Investment
14 Securities?

15 A No.

16 MS. DAVIS CHAITMAN: Can you skip to 2006, just
17 one check?

18 (Pause)

19 BY MS. DAVIS CHAITMAN:

20 Q Okay. So, in 2006, the checks were still on the
21 account of Bernard L. Madoff, right?

22 A The check -- on the name -- on the check, it was
23 Bernard L. Madoff. But the statement for the 509 account
24 was Bernard L. Madoff Investment Securities.

25 Q Okay. But it didn't say LLC, right?

1 A No.

2 Q Okay. And you recall that we just, a few minutes ago,
3 looked at documents showing that in 1991, Madoff was using
4 the trade name Bernard L. Madoff Investment Securities; do
5 you recall that?

6 A I -- there was the logo on that account. I don't -- I
7 don't know if I would call that a trade name.

8 Q Okay.

9 A But I would refer to that as a logo on a like
10 letterhead.

11 Q Okay.

12 MS. DAVIS CHAITMAN: Can you skip to 2007, Roy?
13 Just one check.

14 (Pause)

15 BY MS. DAVIS CHAITMAN:

16 Q Same thing, right, Ms. Collura?

17 A The same thing but in this time period the statement's
18 name was Bernard L. Madoff Investment Securities.

19 Q Without the LLC, right?

20 A Correct.

21 Q Okay. Thank you.

22 MS. DAVIS CHAITMAN: And can I have one check from
23 2008, please, Roy?

24 (Pause)

25 MS. DAVIS CHAITMAN: Oh. We're going to get to

1 those. Okay.

2 Thank you. This is perfect.

3 BY MS. DAVIS CHAITMAN:

4 Q Here's a check dated March 26, 2008, same name on the
5 check, right? Bernard L. Madoff.

6 A Yes.

7 Q Okay.

8 A But if you'd look at the statements, it would say
9 Bernard L. Madoff Investment Securities.

10 Q I -- it's wonderful that you repeat that. I get that
11 point.

12 THE COURT: Well, you keep asking her the same
13 question.

14 MS. DAVIS CHAITMAN: I know. That's true. But
15 it's a different document, Your Honor.

16 THE COURT: It's the same question.

17 MS. DAVIS CHAITMAN: I can rephrase it each time.
18 It'll take me a little longer but --

19 THE COURT: You try your case.

20 MS. DAVIS CHAITMAN: Would you, Roy, bring up
21 DX-HW, please?

22 (Pause)

23 BY MS. DAVIS CHAITMAN:

24 Q Now, I want to go through the checks that the Nelsons
25 sent into Madoff and if you looked -- I'm sure you looked at

1 these, didn't you, when you went through to do your report?

2 A Yes, I did.

3 Q Okay. And this is a check dated March 15th, 2002 and
4 it was made out to Bernard L. Madoff Securities; do you see
5 that?

6 A Yes.

7 Q Okay.

8 MS. DAVIS CHAITMAN: Roy, can you go to something
9 in 2003?

10 (Pause)

11 MS. DAVIS CHAITMAN: Oh, excuse me. Before you do
12 that.

13 BY MS. DAVIS CHAITMAN:

14 Q Look at the endorsement on this check. It says -- do
15 you see how it says pay to the order of Chase Manhattan Bank
16 for deposit only Bernard L. Madoff?

17 A Yes.

18 Q And you looked at the endorsements on the back of the
19 checks; didn't you?

20 A It wasn't so relevant to me for deposited checks. That
21 was -- I really used those endorsements for tracing checks
22 that were written from BLMIS.

23 But I'm -- you know, clearly, this is an endorsement
24 from BLMIS depositing it into their 703 account.

25 Q Well, it says pay to the order of Chase Manhattan Bank

1 for deposit only Bernard L. Madoff; do you see that?

2 A I do.

3 Q Okay.

4 MS. DAVIS CHAITMAN: Can you go to the -- the
5 next check, please?

6 (Pause)

7 BY MS. DAVIS CHAITMAN:

8 Q This is February 14th, 2003 and, again, it was made --

9 MS. DAVIS CHAITMAN: Oh, you know what? I'm
10 looking for the checks that are from the Nelsons to Madoff.
11 Sorry.

12 (Pause)

13 MS. DAVIS CHAITMAN: There you go. We're
14 skipping.

15 BY MS. DAVIS CHAITMAN:

16 Q Here's one in January of 2008 and it's from Carol and
17 Stanley Nelson and it's also made out to Bernard Madoff
18 Securities; do you see that?

19 A I do.

20 Q And the stamp says for deposit only Bernard L. Madoff;
21 do you see that?

22 A Yes.

23 (Pause)

24 MS. DAVIS CHAITMAN: Can you pull up DX-HW,
25 please?

1 (Pause)

2 MS. DAVIS CHAITMAN: This is a -- we actually
3 looked at this. This is the 2002 check that was deposited
4 into Bernard L. Madoff's account.

5 Can you pull up DX-JX, please, Roy?

6 (Pause)

7 BY MS. DAVIS CHAITMAN:

8 Q Okay. This is one dated January 15th, 2008 from the
9 Nelsons to Bernard Madoff Securities and, again, it was for
10 deposit only Bernard Madoff; do you see that?

11 A Yes.

12 Q Okay.

13 (Pause)

14 BY MS. DAVIS CHAITMAN:

15 Q Now, you understand that when a corporate name is
16 changed that you have to notify any holder of any bank that
17 the company is doing with that the -- there's been a change
18 in the name; isn't that true?

19 A I'm not -- but I'm not -- I can't opine --

20 Q You're not aware that?

21 A -- on that.

22 Q Okay.

23 MS. DAVIS CHAITMAN: Can you pull up DX-L,
24 please?

25 (Pause)

1 BY MS. DAVIS CHAITMAN:

2 Q This is dated January 1, 2001 and it's a letter from
3 Bernard L. Madoff Investment Securities, LLC; do you see
4 that?

5 A Yes.

6 Q And it's written to Bank of New York; do you see that?

7 A Yes.

8 Q And, in essence, the letter says, we have changed the
9 -- from the sole proprietorship. It -- we've now formed
10 Bernard L. Madoff Investment Securities, LLC; do you see
11 that?

12 A Yes.

13 Q Okay. And --

14 MS. DAVIS CHAITMAN: Can you pull up DX-M, please,
15 Roy?

16 (Pause)

17 BY MS. DAVIS CHAITMAN:

18 Q That same letter was sent to a whole bunch of different
19 companies; wasn't it?

20 A I don't know who else it was sent to. I see this one
21 was sent to the National Securities Clearing Corporation.

22 Q The NESCC with which Madoff regularly did business,
23 right?

24 You don't know that?

25 A I don't know that.